

**DEPARTMENT OF STATE REVENUE**  
**Fiduciary Income Tax**  
**LETTER OF FINDINGS NUMBER: 99-0283P**  
**For the Year 1997**

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**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-5 (b); 45 IAC 15-11-5

The Estate protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer's Estate was assessed a returned check penalty in the amount of ten percent (10%). The returned check was not honored after the required ten-day period and a hundred percent (100%) penalty was assessed according to IC 6-8.1-10-5.

Taxpayer protests the penalty and states its account was properly funded but through internal operations the check was not honored.

The department makes its determination based upon information contained in the file and taxpayer's letter of protest.

I. **Tax Administration** – Penalty

**DISCUSSION**

At issue is whether the taxpayer is subject to the one hundred percent (100%) returned check penalty.

The attorney for the Estate states the tax balance was paid on a check through (A) and the account was properly funded at the time the check was written but through their internal operations the check was not honored. Taxpayer further states that (A) had assured him that all checks would be honored at the time the check was written which obviously wasn't correct.

Taxpayer was issued the returned check billing on April 19, 1999 that allows ten days for the check to be honored. The check was not honored as required and on May 10, 1999, the department issued its one hundred percent (100%) penalty billing.

IC 6-8.1-10-5 (b) clearly states that if the person fails to make the payment within the ten (10) day period, the penalty is increased to one hundred percent (100%).

Taxpayer made payment of the tax and interest on May 27, 1999 and has not provided reasonable cause to allow the department to waive the returned check penalty.

### **FINDING**

Taxpayer's protest is denied.